IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5471 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATHUBHAI M CHAVDA

Versus

DIST DEVLOPMENT OFFICER

Appearance:

MR JF SHAH for Petitioner

RULE SERVED BY DS for Respondent No. 1

MR KH BAXI for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 30/03/2000

ORAL JUDGEMENT

#. Mr.B.A.Vaishnav, for Mr.J.F.Shah, Mr.K.H.Baxi, for respondent no.2. Mr.Vaishnav, has tendered a purshis which reads as under :-

" On behalf of the petitioner in the above petition it is stated upon instructions that the petitioner is aggreable to have the benefit of higher grade scales admissible to him from the date of his appointment as if he has not received the benefit of the selection grade. He is also agreeable to have the difference in salary on account of grant of selection grade adjusted against the benefit receivable by him on account of grant of High Grade Scale as aforesaid."

#. It is also submitted by Mr.Vaishnav that a group of Spl.C.A. No.9133/94 and allied matters are disposed of by this court by judgment and order dtd.28.12.99. This application also stands disposed of in the same term. This court while disposing of the said aforesaid group has observed like this in para 3 of the judgment;

"3. In the result, all these special civil applications are disposed of in terms that the respondent no.2 may consider this request of the petitioners and give its decision within a period of one month from the date of receipt of writ of this order. Where this prayer of the petitioner is acceptable, accordingly their cases for giving them the benefit of higher pay scales under the new scheme be considered and finalised within a period of one month next. Necessary orders for fixation of their pay in the higher pay scale be made. As a result of this fixation the amount of arrears of pay payable to them also be determined. All this exercise has to be completed within a period of two months of taking of the decision by the authority concerned. Accordingly, revision may also be made of retirementary benefits for which the petitioners would have been entitled and to see that the revised pension pay orders and gratuity pay orders are issued after giving effect to this decision. Arrears of revised pension and other retirementary benefits may also be determined and paid to the petitioners within two months. However, it is permissible to the respondents to deduct from the arrears of fixation of pay of the petitioners in the higher pay scale, the benefits of selection grade which they got. If any deficit still remains of the benefit which the petitioners got of selection grade and the benefits of new scheme, the respondent no.2 may consider for waiver of recovery thereof in the facts of this case. Where this claim of the petitioners is not acceptable a reasoned order

may be passed and copy of the same may be sent to the petitioners by registered post A.D.. The special civil application and Rule stand disposed of accordingly with no order as to costs. However, liberty is granted to the petitioners for revival of these special civil applications in case of difficulty by filing a simple note."

#. The Special Civil Application stands disposed of, however, with liberty to the petitioner for revival of this Special Civil Application in case of difficulty by filing a simple note. Rule made absolute in the aforesaid term.

kks